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No. 97-15

SUPPLEMENTARY EXTRADITION CONVENTION WITH SWEDEN

COMPLETED

ORIGINAL

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE SUPPLEMENTARY CONVENTION ON EXTRADITION BETWEEN THE UNITED SATES OF AMERICA AND THE KINGDOM OF SWEDEN, SIGNED AT WASHINGTON ON MAY 27, 1981

JULY 28, 1981.—Convention was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON: 1981

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *July 28, 1981.*

To the Senate of the United States:

With a view of receiving the advice and consent of the Senate to ratification, I transmit herewith the Supplementary Convention on Extradition between the United States of America and Sweden, signed at Washington on May 27, 1981.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the treaty.

The supplementary extradition treaty updates an existing extradition treaty with Sweden of October 24, 1961. It expands the list of extraditable offenses to include: tax evasion, obstruction of justice, offenses relating to the international transfer of funds, and conspiracy to commit extraditable offenses. Upon entry into force it will amend the extradition convention between the United States and Sweden.

This treaty will improve upon our current extradition treaty with Sweden and will thus contribute to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the treaty and give its advice and consent to ratification.

RONALD REAGAN.

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LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, July 15, 1981.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Supplementary Extradition Convention between the United States and Sweden, signed at Washington on May 27, 1981. I recommend that the treaty be transmitted to the Senate for its advice and consent to ratification.

The treaty amends an existing extradition treaty with Sweden of October 24, 1961. It updates the current treaty by including innovations found in our most recently concluded extradition treaties. One such innovation is a provision which expands the list of offenses for which extradition may be sought. Newly listed offenses include tax evasion, obstruction of justice, and offenses relating to the international transfers of funds, as well as conspiracy to commit extraditable offenses.

Article I has been amended to clarify the categories of persons to whom the obligation to extradite refers, i.e. those persons who are sought for prosecution, have been found guilty but not sentenced, or are wanted for the enforcement of a sentence.

The Article II list of extraditable offenses has been expanded. As amended, Article II will include a provision permitting extradition for an offense, whether listed or not, which is punishable under both the Federal laws of the United States and the laws of Sweden.

Article III, as amended, contains a clarification regarding the general obligation to extradite which makes clear that the treaty applies not only to persons convicted and sentenced but also to persons who were found guilty of an offense but not sentenced. This latter category would include persons who fled detention prior to imposition of sentence.

Article IV has an amended jurisdiction provision which expands the scope of the treaty to permit extradition for offenses committed outside the territory of the requesting State where the person sought is a national of the requesting State, or where the courts of the requested State would have jurisdiction in similar circumstances.

Article VII deals with the extradition of nationals and grants the Executive the discretionary power to extradite nationals of its own country. As amended, Article VII will provide that if extradition is denied solely on the basis of nationality, the requested State will undertake to submit the case to its competent authorities for the purpose of prosecution, provided that State has jurisdiction over the offense. This amendment takes into account the law of Sweden which normally prohibits extradition of Swedish nationals but allows for their prosecution in Sweden for offenses committed abroad.

Article XI outlines the procedures for submitting an extradition request including the type and degree of evidence required to accompany the request. It clarifies the standard of proof necessary for an extradition request by specifying such evidence as would, according to the laws of the requested State, provide probable cause to believe that the person sought committed the offense for which extradition is requested.

Article XI(4) as amended, streamlines procedures for certifying documents which accompany an extradition request.

Article XII, as amended, contains a minor linguistic clarification regarding statements to accompany requests for provisional arrest.

Article XIII has been redrafted in its entirety. It is now similar to the text used in many of our recently concluded extradition treaties. It provides that the requested State shall make all arrangements necessary for internal extradition procedures. These include the review of extradition documentation prior to its presentation to the judicial authorities and representation on behalf of the requesting State before the competent authorities. Article XIII also obliges the requesting State to pay all expenses associated with the transportation of persons sought and with the translation of extradition documents. The costs associated with the representation of the case shall be borne by the requested State.

The supplementary convention amending our current extradition treaty with Sweden will enter into force on the date of exchange of the instruments of ratification.

The Department of Justice joins the Department of State in favoring approval of this treaty by the Senate at an early date.

Respectfully submitted,

WILLIAM CLARK.

SUPPLEMENTARY CONVENTION ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SWEDEN

The Government of the United States of America and the Government of the Kingdom of Sweden, desiring to make more effective the Extradition Convention signed at Washington October 24, 1961.

Have agreed upon the following amendments and additions to the Convention:

ARTICLE I

Each Contracting State undertakes to surrender to the other, subject to the provisions and conditions laid down in this Convention, those persons found in its territory who are sought for the purpose of prosecution, who have been found guilty of committing an offense, or who are wanted for the enforcement of a sentence, in respect of any offense specified or described in Article II of this Convention committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article IV of this Convention.

ARTICLE II

Extradition shall be granted, subject to the provisions of this Convention, for the following offenses:

1. Murder, including infanticide; the killing of a human being, when such act is punishable in the United States as voluntary manslaughter, and in Sweden as manslaughter.
2. Malicious wounding; mayhem; willful assault resulting in grievous bodily harm.
3. Kidnapping; abduction.
4. Rape; indecent assault; unlawful sexual acts with or upon children under the age specified by the laws of both Contracting States.
5. Illegal abortion.
6. Bigamy.
7. Robbery; burglary, defined to be the breaking into or entering either in day or night time, a house, office, or other building of a government, corporation, or private person, with intent to commit a felony therein.
8. Arson.
9. Willful damage to property.
10. Piracy; mutiny on board a vessel or an aircraft for the purpose of rebelling against the authority of the Captain or Commander of such vessel or aircraft; or by fraud or violence taking possession of such vessel or aircraft.
11. Blackmail or extortion.
12. Forgery or the utterance of forged papers; the forgery of falsification of official acts of government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

13. The counterfeiting, falsifying, or altering of money, whether coin or paper, or of instruments of debt created by national, state, provincial, or municipal governments, or of coupons thereof, or of bank-notes, or the utterance or circulation of the same; or the counterfeiting, falsifying, or altering of seals of state.

14. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; larceny; obtaining money, valuable securities, or other property by false pretenses or by threats of injury; receiving money, valuable securities, or other property knowing the same to have been embezzled, stolen, or fraudulently obtained.

15. Making use of the mails or other means of communication in connection with schemes devised or intended to deceive or defraud the public or for the purpose of obtaining money under false pretenses.

16. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company.

17. Soliciting, receiving, or offering bribes.

18. Perjury; subornation of perjury; making a false statement to a government agency or official.

19. Offenses relating to slavery or the transporting of persons for illegal purposes.

20. Offenses against the bankruptcy laws.

21. Offenses against the laws relating to the importation, exportation or transit of goods, articles, or merchandise.

22. Offenses against the laws relating to the traffic in, or the possession, production, or manufacture of narcotic drugs, cannabis, psychotropic drugs, cocaine, and its derivatives, or other dangerous drugs and chemicals.

23. Offenses against the laws relating to the illicit manufacture of or traffic in poisonous chemicals or substances injurious to health.

24. Offenses against the laws relating to the obstruction of justice.

25. Offenses relating to willful evasion of taxes and duties.

26. Offenses against the laws relating to international transfers of funds.

Extradition shall also be granted, subject to the provisions of this Convention, for:

(a) Any other offense which is punishable under both the Federal laws of the United States and the laws of Sweden; or

(b) Any attempt to commit, conspiracy to commit, preparation for, or participation in any of the above specified or described offenses, when such acts constitute offenses according to the laws of both Contracting States.

With regard to offenses specified or described in this Article, it shall not matter whether or not the laws of the Contracting States place the offense within the same category of offenses or denominate an offense by the same terminology.

Article III

1. The requested State shall, subject to the provisions of this Convention, extradite those persons who are sought for the purpose of

prosecution, who have been found guilty of committing an offense, or who are wanted for the enforcement of a sentence, in respect of any offense specified or described in Article II only when both of the following conditions exist:

(a) The law of the requesting State, in force when the offense was committed, provides a possible penalty of deprivation of liberty for a period of more than one year; and

(b) The law in force in the requested State generally provides a possible penalty of deprivation of liberty for a period of more than one year which would be applicable if the offense were committed in the territory of the requested State.

2. When the person sought has been sentenced in the requesting State, the punishment awarded must have been for a period of at least four months.

ARTICLE IV

1. Extradition need not be granted for an offense which has been committed within the territorial jurisdiction on the requested State, but if the offense has been committed in the requested State by an officer or employee of the requesting State, who is a national of the requesting State, the executive authority of the requested State shall, subject to its laws, have the power to surrender the person sought if, in its discretion, it be deemed proper to do so.

2. Subject to the provisions of paragraph 1 of this Article, extradition shall be granted in respect of an extraditable offense committed outside the territorial jurisdiction of the requesting State if:

(a) The courts of the requested State would be competent to exercise jurisdiction in similar circumstances; or

(b) The person sought is a national of the requesting State.

3. The words "territorial jurisdiction" as used in this Article and in Article I of this Convention mean: territory, including territorial waters, and the airspace thereover, belonging to or under the control of one of the Contracting States; and vessels and aircraft belonging to one of the Contracting States or to a citizen or corporation thereof when such vessel is on the high seas or such aircraft is over the high seas.

ARTICLE VII

1. There is no obligation upon the requested State to grant the extradition of a person who is a national of the requested State, but the executive authority of the requested State shall, subject to the appropriate laws of that State, have the power to surrender a national of that State if, in its discretion, it be deemed proper to do so.

2. If the request for extradition is denied solely on the basis that the person claimed is a national of the requested State, that State shall, if asked to do so by the requesting State, take all possible measures in accordance with its own laws to prosecute the person claimed. If the requested State requires additional documents or evidence, such documents or evidence shall be submitted without charge to that State. The requesting State shall be informed of the result of its request.

Article XI

1. The request for extradition shall be made through the diplomatic channel and shall be supported by the following documents:

(a) In the case of a person who has been convicted of the offense, a duly certified or authenticated copy of the final sentence of the competent court. If the person was found guilty but not sentenced, the request shall be accompanied by a statement to that effect by the competent court. However, in exceptional cases, the requested State may request additional documentation.

(b) In the case of a person sought for the purpose of prosecution:

(i) A certified copy of the warrant of arrest, issued by a judge or other competent judicial officer with respect to a request emanating from the United States; or a certified copy of the decision of arrest (haktningsbeslut) issued by a judge or other competent judicial officer with respect to a request emanating from Sweden; and

(ii) Such evidence as would provide probable cause to believe, according to the laws of the requested State, that the person sought has committed the offense for which extradition is requested.

2. The documents specified in this Article must include a precise statement of the criminal act for which the person is sought or of which he has been convicted, and the place and date of the commission of the criminal act. The said documents must be accompanied by an authenticated copy of the texts of the applicable laws of the requesting State including the laws relating to the limitation of the legal proceedings or the enforcement of the penalty for the offense for which the extradition of the person is sought, and data or records which will prove the identity of the person sought as well as information as to his nationality and residence.

3. The documents in support of the request for extradition shall be accompanied by a duly certified translation thereof into the language of the requested State.

4. The documents which, according to this Article, shall accompany the extradition request, shall be admitted in evidence when:

(a) In the case of a request emanating from the United States, they are signed by a judge or other competent officer;

(b) In the case of a request emanating from Sweden, they are signed by a judge or other judicial authority and are certified by the principal diplomatic or consular officer of the United States in Sweden.

Article XII

1. The Contracting States may request, through the diplomatic channel, the provisional arrest of a person, provided that the offense for which he is sought is one for which extradition shall be granted under this Convention. The request shall contain:

(a) A statement of the offense for which extradition is requested;

(b) A description of the person sought for the purpose of identification;

(c) A statement of his whereabouts, if known; and

(d) A declaration that there exist and will be forthcoming the relevant documents required by Article XI of this Convention.

2. If, within a maximum period of 40 days from the date of the provisional arrest of the person in accordance with this Article, the requesting State does not present the formal request for his extradition, duly supported, the person detained will be set at liberty and a new request for his extradition will be accepted only when accompanied by the relevant documents required by Article XI of this Convention.

ARTICLE XIII

1. The requested State shall provide review of documentation in support of an extradition request for its legal sufficiency prior to presentation to the judicial authorities and shall provide for representation of the interests of the requesting State before the competent authorities of the requesed State.

2. Expenses related to the translation of documents and to the transportation of the person sought shall be paid by the requesting State. No pecuniary claim, arising out of the arrest, detention, examination, and surrender of persons sought under the terms of this Convention or arising out of the representation of the interests of the requesting State before the competent authorities of the requested State, shall be made by the requested State against the requesting State.

This Supplementary Convention shall apply to offenses encompassed by Article II committed before as well as after its entry into force.

Article XVI of the Convention of October 24, 1961, shall also apply to the entry into force and the termination of this Supplementary Convention.

In witness whereof, the respective plenipotentiaries have signed this Supplementary Convention.

Done at Washington in duplicate, in the English and Swedish languages, both versions being equally authentic, this Twenty-seventh day of May, 1981.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE KINGDOM OF SWEDEN:

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